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# TRANSCRIPT OF RECORD

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1929

No. 281

UNITED STATES OF AMERICA, APPELLANT

vs.

D. D. ADAMS

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF ARKANSAS

FILED JULY 31, 1929

# SUPREME COURT OF THE UNITED STATES

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## UNITED STATES OF AMERICA, APPELLANT

vs.

## D. D. ADAMS

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF ARKANSAS

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#1112

In United States District Court, Eastern District of Arkansas

*Indictment*

Filed April 3, 1928

In the District Court of the United States in and for the Eastern District of Arkansas, at the April term thereof, A. D. 1928, held in the western division of said district.

The grand jurors of the United States, impaneled, sworn, and charged to inquire into offenses committed in the eastern district of Arkansas, at the term aforesaid of the court aforesaid, on their oaths present:

That Drury D. Adams, on or about the 30th day of June, 1926, at Batesville, in Independence County, in the State of Arkansas, was officer and agent, to wit, that is, the said Drury D. Adams was president of the Union Bank & Trust Company, at Batesville, Arkansas, which said Union Bank & Trust Company was then and there a banking corporation that had theretofore been created, organized, and established, and was then and there existing and in operation and doing business under and by virtue of the laws of the State of Arkansas, concerning banks, and which said Union Bank & Trust Company was then and there a member bank of the Federal Reserve Bank of St. Louis, Missouri, in the eighth Federal reserve district, in compliance with and under and by virtue of the acts of Congress of December 23, 1913, as amended, known as the Federal reserve act, and was then and there existing and doing a banking business in the city of Batesville, in Independence County, in the State of Arkansas, as a member of the Federal reserve system of the United States, under the laws of the United States, and is hereinafter referred to as "said member bank"; and that the said Drury D. Adams, so being president of said member bank, then and there with an intent
4 on his part to injure and defraud said member bank, and to deceive the officers and directors of said Federal reserve bank and of said member bank; and the agents and examiners appointed under the laws of the United States to examine the affairs of said member bank, wilfully, unlawfully, fraudulently, and feloniously did make and cause to be made a certain false entry in a certain book and record then and there used by said member bank in transacting its said banking business; that is to say, in the book and record of said member bank, known and designated as the "individual ledger," on a page provided for the keeping of the record of the account of D. D. Adams and Sons, showing checks drawn on and deposits made with said member bank by the said D. D. Adams and Sons, a certain

entry in the column under the word "Deposits," and opposite the date "Jun. 30, 1926," which said entry is in the figures following, to wit:

"75000,"

which said entry then and there purported to show and did in substance and effect indicate and declare that the said D. D. Adams and Sons had made a deposit of $75,000.00 with said member bank on June 30, 1926, and that the said account of the said D. D. Adams and Sons was entitled to be credited with that sum, when in truth and in fact the said D. D. Adams and Sons had not made a deposit of $75,000.00 with said member bank on the aforesaid date, and said account was not entitled to said credit, as aforesaid; and that said entry so as aforesaid made was unjustified, unwarranted, and false, as the said Drury D. Adams then and there well knew, contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States.

(Signed) IRA J. MACK,
*Assistant United States Attorney.*

[File endorsement omitted.]

[Order transferring cause to Northern Division omitted in printing.]

[Clerk's certificate omitted in printing.]

In United States District Court for the Northern Division of the Eastern District of Arkansas

No. 1112

UNITED STATES VS. D. D. ADAMS

*Plea of former jeopardy and former acquittal*

Filed June 3, 1929

Comes the defendant, D. D. Adams, and files this, his plea of "former jeopardy" and "former acquittal" of the charge embraced in the indictment herein, numbered 1112, and in support of same he alleges:

That the indictment herein charges that the defendant, D. D. Adams, being president of the Union Bank & Trust Company, of Batesville, Arkansas, with intent on his part to injure and defraud said bank, and to deceive the officers and directors of the Federal reserve bank and of said member bank, and the agents and examiners appointed under the law to examine the affairs of said member bank, wilfully, unlawfully, fraudulently, and feloniously did make and cause to be made a certain false entry in a certain book and record then and there used by said member bank in transacting its business, known and designated as the "individual ledger," on a page provided for the keeping of the record of the account of D. D. Adams & Sons,

showing checks drawn on and deposits made with said member bank by the said D. D. Adams & Sons, a certain entry in the column under the word "Deposits," and opposite the date "Jun. 30, 1926," which said entry is in the following figures, to wit:

"75'00,"

which said entry then and there purported to show and did in substance and effect indicate and declare that the said D. D. Adams & Sons had made a deposit of $75,000.00 with said member bank on June 30th, 1926, and that said account was entitled to be credited with that sum, when in truth and in fact the said D. D. Adams & Sons had not made a deposit of $75,000.00 with said member bank on the aforesaid date, and said account was not entitled to said credit, as aforesaid, and that said entry was unjustified, unwarranted, and false.

That heretofore, to wit, on July 9th, 10th, and 11th, 1928, this defendant has been tried before a jury duly empaneled and selected for that purpose, in the District Court of the United States, for the Northern Division of the Eastern District of Arkansas, a court of proper and competent jurisdiction, under an indictment theretofore returned in said court against him, charging him in the first count thereof with having made a certain false entry in a certain book and record then and there used by said member bank, referring to the Union Bank & Trust Company, of Batesville, Arkansas, said record known as the journal ledger and daily balance book, on a page of said book dated June 30th, 1926, on the debit side of said page under the heading "Items," in the division and space of said page used for the account of Federal Bank & Trust Company, of Little Rock, dated "Jun. 30, 1926," a copy of said item being as follows:

"R 75 000"

which said entry then and there purported to show, and did in substance and effect indicate and declare that on said 30th day of June, 1926, said member bank had made a remitttance of $75,000 to the Federal Bank & Trust Co., of Little Rock, Ark., whereas in truth and in fact no such remittance of $75,000 was made on said date, and said Federal Bank & Trust Company was not then and there entitled to be charged therefor, etc., a copy of which indictment is attached hereto as Exhibit A.

That on said trial so had in this court, as aforesaid, on said last-mentioned indictment this defendant was found not guilty.

That evidence was introduced by the United States in said former trial whereby it was shown, and the United States relied for a conviction, that the said D. D. Adams did draw a certain draft on said 30th day of June, 1926, signed by Dixie Cotton Oil Company, by D. D. Adams, on the Interstate Trust & Banking Company, of New Orleans, La., and take credit upon the books of said company for said sum of $75,000.00, and charge same to the Federal Bank & Trust Company, of Little Rock, all of said charges

and credits and said draft being the identical charges, credits, and drafts, and all being based upon the single act of placing said draft in the hands of a cashier or assistant cashier of said Union Bank & Trust Company on said 30th day of June, 1926, all of which the Government must now rely upon for a conviction herein, and said charge being the same identical charge as that contained in the present indictment, and the evidence required to convict in this case being the same identical evidence heretofore introduced and relied upon by the Government, and said indictment being based upon the same identical section of law, to wit, Revised Statutes of the United States, sec. 5392, Sept. 26, 1918 (40 Stat. 972).

That before the jury would be authorized to convict the defendant in this case of the crime of making the false entry charged it would first be necessary for it to hear and consider the same identical evidence submitted to the jury in the former trial and to draw different and opposite conclusions from said evidence to that reached by the jury in the former trial.

And defendant here tenders proof of all of the allegations and facts set forth and alleged herein and prays that upon a hearing of said evidence that the indictment herein be quashed and that defendant be discharged.

(Signed) T. H. CARAWAY,
COLEMAN & REEDER,
*Attorneys for Defendant.*

[File indorsement omitted.]

11 *Exhibit A to plea of former jeopardy and acquittal*

UNITED STATES OF AMERICA,
*Eastern District of Arkansas.*

In the District Court of the United States in and for the Eastern District of Arkansas, at the April term thereof, A. D. 1928, held in the Western Division of said district.

The grand jurors of the United States, impanelled, sworn, and charged to inquire into offenses committed in the Eastern District of Arkansas, at the term aforesaid, of the court aforesaid, on their oaths present:

That Drury D. Adams and Army Hodges on or about the 30th day of June, 1926, at Batesville, in Independence County, in the State of Arkansas, were officers and agents, to wit, that is, the said Drury D. Adams was president and the said Edwin Army Hodges was assistant cashier of the Union Bank & Trust Company, of Batesville, Arkansas, which said Union Bank & Trust Company was then and there a banking corporation that had theretofore been created, organized, and established and was then and there existing and in operation and doing business under and by virtue of the laws of the State of Arkansas concerning banks, and which Union Bank & Trust Company was then and there a member bank of the Federal Reserve Bank of St. Louis, Missouri, in the eighth Federal reserve district, in com-

pliance with and under and by virtue of the act of Congress of December 23, 1913, as amended, known as the Federal reserve act, and was then and there existing and doing a banking business in the city of Batesville, in Independence County, in the State of Arkansas, as a member of the Federal reserve system of the United States, under the laws of the United States, and is hereinafter referred to as "said member bank"; and that they, the said Drury D. Adams and Edwin Army Hodges, so being president and assistant cashier, respectively, of said member bank, then and there, with intent on their part
12 to injure and defraud said member bank, and to deceive the officers and directors of said Federal reserve bank and of said member bank, and the agents and examiners appointed under the laws of the United States to examine the affairs of said member bank, unlawfully, wilfully, fraudulently, and feloniously did make and cause to be made a certain false entry in a certain book and record then and there used by said member bank in transacting its said banking business, that is to say, in the book and record of said member bank known and designated as "journal, ledger, and daily balance" book, on the page in said book dated "Jun. 30, 1926," on the debit side of said page under the heading "Items," in the division and space of said page used for the account of "Fed. Bk. & Tr. Co.," a copy of said entry being as follows:

"R. 75000,"

which said entry then and there purported to show and did in substance and effect indicate and declare that on said 30th day of June, 1926, said member bank had made a remittance of $75,000 to the Federal Bank & Trust Company, of Little Rock, Arkansas, whereas in truth and in fact no such remittance of $75,000 was made on said date by said member bank to the said Federal Bank & Trust Company, and said Federal Bank & Trust Company was not then and there entitled to be charged therefor, and the said entry so as aforesaid made was unjustified, unwarranted, and false, as they, the said Drury D. Adams and Edwin Army Hodges, then and there well knew, contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States.

COUNT II

And the grand jurors aforesaid, upon their oaths aforesaid, do further present:

That heretofore, to wit, on or about the 23rd day of August, 1926, the said Drury D. Adams and Edwin Army Hodges, at Batesville, in Independence County, in the State of Arkansas, were officers and agents, to wit, that is, the said Drury D. Adams was president
13 and the said Edwin Army Hodges was assistant cashier of the Union Bank & Trust Co., of Batesville, Arkansas, which said Union Bank & Trust Company was then and there a banking corporation that had theretofore been created, organized, and established and was then and there existing and in operation and doing business under and by virtue of the laws of the State of Arkansas concerning

banks, which said Union Bank & Trust Company was then and there a member bank of the Federal Reserve Bank of St. Louis, Missouri, in the eighth Federal reserve district, in compliance with and under and by virtue of the act of Congress of December 23, 1913, as amended, known as the Federal reserve act, and was then and there existing and doing a banking business in the city of Batesville, in Independence County, in the State of Arkansas, as a member of the Federal reserve system of the United States under the laws of the United States, and is hereinafter referred to as "said member bank"; and that they, the said Drury D. Adams and Edwin Army Hodges, so being president and assistant cashier, respectively, of said member bank, then and there with intent on their part to injure and defraud said member bank, and to deceive the officers and directors of said Federal reserve bank and of said member bank, and the agents and examiners appointed under the laws of the United States to examine the affairs of said member bank, unlawfully, wilfully, fraudulently, and feloniously did make and cause to be made a certain false entry in a certain book and record then and there used by said member bank in transacting its said banking business, that is to say, in the book and record of said member bank known and designated as the "journal, ledger, and daily balance" book, on the page in said book dated "Aug. 23, 1926," on the debit side of the said page under the heading "Items" in the division and space of said page used for the account of "Fed. Bk. & Tr. Co.," a copy of said entry being as follows:

"D. D. Adams and Sons 15,000.

"By D. D. A."

14 which said entry then and there purported to show and did in substance and effect indicate and declare that on said 23rd day of August, 1926, said member bank made a remittance of $15,000.00 to the Federal Bank & Trust Company, of Little Rock, Arkansas, whereas in truth and in fact no such remittance of $15,000 was made on said date by said member bank to said Federal Bank & Trust Company, and said Federal Bank & Trust Company was not then and there entitled to be charged therefor, and said entry so as aforesaid made was unjustified, unwarranted, and false, as they, the said Drury D. Adams and Edwin Army Hodges, then and there well knew, contrary to the form of the statutes in such case made and provided, and against the peace and dignity of the United States.

COUNT III

And the grand jury aforesaid, upon their oaths, further present:

That Drury D. Adams and Edwin Army Hodges, on or about the 23rd day of August, 1926, at Batesville, in Independence County, in the State of Arkansas, were officers and agents, to wit: that is, the said Drury D. Adams was president, and the said Edwin Army Hodges was assistant cashier of the Union Bank & Trust Company, of Batesville, Arkansas, which said Union Bank & Trust Company, of Batesville, Arkansas, was then and there a banking corporation

that had theretofore been created, organized, and established, and was then and there existing and in operation and doing business under and by virtue of the laws of the State of Arkansas concerning banks, and which Union Bank & Trust Co. was then and there a member bank of the Federal Reserve Bank of St. Louis, Missouri, in the eighth Federal reserve district, in compliance with and under and by means of the act of Congress of December 23, 1913, as amended, known as the Federal reserve act, and was then and there existing and doing a banking business in the city of Batesville, in Independence County, in the State of Arkansas, as a member
15 of the Independence Federal reserve system of the United States, under the laws of the United States, and is hereinafter referred to as "said member bank"; and that they, the said Drury D. Adams and Edwin Army Hodges, so being president and assistant cashier, respectively, of said member bank, then and there with intent on their part to injure and defraud said member bank, and to deceive the officers and directors of said Federal reserve bank and of said member bank, and the agents and examiners of said member bank, unlawfully, wilfully, fraudulently, and feloniously did make and cause to be made a certain false entry in a certain book and record then and there used by said member bank in transacting its banking business, that is to say, in the book and record of said member bank known and designated as the "journal, ledger, and daily balance" book, on the page in said book dated "Aug. 23, 1926," on the debit side of said page for the account of "Fid. Bk. & Tr. Co.," a copy of said entry being as follows:

"D. D. A. and Sons 10000.

"By D. D. A."

which entry then and there purported to show and did in substance and effect indicate and declare that on said 3rd day of August, 1926, said member bank had made a remittance of $10,000.00 to the Fidelity Bank & Trust Co., of Memphis, Tennessee, whereas in truth and in fact no such remittance of $10,000.00 was made on said date by said member bank to the said Fidelity Bank & Trust Company, and said Fidelity Bank & Trust Company was not then and there entitled to be charged therefor, and said entry so as aforesaid made was unjustified, unwarranted, and false, as they, the said Drury D. Adams and Edwin Army Hodges, then and there well knew, contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States.

COUNT IV

And the grand jurors aforesaid, upon their oaths aforesaid, do further present:

16 That Drury D. Adams and Edwin Army Hodges, on or about the 23d day of August, 1926, at Batesville, in Independence County, in the State of Arkansas, were officers and agents, to wit: that is, the said Drury D. Adams was president and the said

Edwin Army Hodges was assistant cashier of the Union Bank & Trust Company, of Batesville, Arkansas, which said Union Bank & Trust Company was then and there a banking corporation that had theretofore been created, organized, and established and was then and there existing and in operation and doing business under and by virtue of the laws of the State of Arkansas concerning banks, and which Union Bank & Trust Company was then and there a member bank of the Federal Reserve Bank of St. Louis, Missouri, in the eighth Federal reserve district, in compliance with and under and by virtue of the act of Congress of December 23, 1913, as amended, known as the Federal reserve act, and was then and there existing and doing a banking business in the city of Batesville, in Independence County, in the State of Arkansas, as a member of the Federal reserve system of the United States, under the laws of the United States, and is hereinafter referred to as "said member bank"; and that they, the said Drury D. Adams and Edwin Army Hodges, so being president and assistant cashier, respectively, of said member bank, then and there with the intent on their part to injure and defraud said member bank and divers other persons whose names are to the grand jurors unknown, and who were creditors, shareholders, and depositors of said member bank, certain of the moneys, funds, and credits of said member bank, then and there being to the amount and of the value of $25,000.00, the particular kind, description, numbers, amounts, and values of which said moneys, funds, and credits, respectively, this grand jury has no means of knowing, and can not therefore here set out, did unlawfully, fraudulently, feloniously, and wilfully misapply by unlawfully, fraudulently, feloniously,
17 and wilfully and not for any use, benefit, or advantage of the said member bank, converting and applying the same moneys, funds, and credits to the use, benefit, and advantage of the said Drury D. Adams and divers other persons to the grand jurors unknown, which said conversion and misapplication of the last-mentioned moneys, funds, and credits was then and there accomplished by the said Drury D. Adams and said Edwin Army Hodges in the following manner; that is to say, by virtue of the power of control, direction, and management which the said Drury D. Adams and Edwin Army Hodges as president and assistant cashier, respectively, of said member bank, then and there possessed and exercised over the moneys, funds, and credits of the same, the said Drury D. Adams and Edwin Army Hodges, at the time and place in this count aforesaid, with the intent aforesaid, did unlawfully, feloniously, fraudulently, knowingly, and wilfully misapply the sum of $25,000 of the moneys, funds, and credits of the said member bank to the payment of a certain draft, No. 8660, for the sum of $25,000.00, bearing date "Aug. 21, 1926," issued by said member bank by the said "E. A. Hodges, a cashier," drawn on and payable to the order of the Liberty Central Tr. Co., of St. Louis, Mo., and which draft was paid by the said Drury D. Adams and Edwin Army Hodges out of the moneys, funds, and credits of the said member bank for the use,

benefit, and advantage of the said member bank, whereby the said sum became then and there lost to the said member bank, and the moneys, funds, and credits of the same then and there were and are depleted in that amount, contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States.

COUNT V

That Drury D. Adams and Edwin Army Hodges, on or about the 5th day of October, 1926, at Batesville, in Independence County, in the State of Arkansas, were officers and agents, to wit: that is, the said Drury D. Adams was president and the said Edwin Army
18 Hodges was assistant cashier of the Union Bank & Trust Company, of Batesville, Arkansas, which said Union Bank & Trust Company was then and there a banking corporation that had theretofore been created, organized, and established and was then and there existing and in operation and doing business under and by virtue of the laws of the State of Arkansas concerning banks, and which Union Bank & Trust Company was then and there a member bank of the Federal Reserve Bank of St. Louis, Mo., in the eighth Federal reserve district, in compliance with and under and by virtue of the act of Congress of December 23, 1913, as amended, known as the Federal reserve act, and was then and there existing and doing a banking business in the city of Batesville, in Independence County, in the State of Arkansas, as a member of the Federal reserve system of the United States, under the laws of the United States, and is hereinafter referred to as "said member bank"; and that they, the said Drury D. Adams and Edwin Army Hodges, so being president and assistant cashier, respectively, of said member bank, then and there with intent on their part to injure and defraud said member bank, and to deceive the officers and directors of said Federal reserve bank and of said member bank, and the agents and examiners appointed under the laws of the United States to examine the affairs of said member bank, unlawfully, wilfully, fraudulently, and feloniously did make and cause to be made a certain false entry in a certain book and record then and there used by said member bank in transacting its banking business; that is to say, in a book and record of said member bank known and designated as the "journal, ledger, and daily balance" book, on the page in said book dated "Oct. 5th, 1926," on the debit side of said page under the heading "Items" in the division and space of said page used for the account of "sundry banks (items in transit)," and being the eighth item thereof, a copy of said entry being as follows:

"Hazen 27,125.25,"

which said entry then and there purported to show and in sub-
19 stance and effect did indicate and declare that on said October 5, 1926, said member bank had made a remittance of $27,125.25 to the Bank of Grand Prairie, and said Bank of Grand Prairie

was not then and there entitled to be charged therefor, and said entry so as aforesaid made was unjustifiable, unwarranted, and false, as they, the said Drury D. Adams and Edwin Army Hodges, then and there well knew, contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States.

COUNT VI

And the grand jurors aforesaid, upon their oaths aforesaid, do further present:

That Drury D. Adams and Edwin Army Hodges, on or about the 8th day of March, 1927, at Batesville, in Independence County, in the State of Arkansas, were officers and agents, to wit: that is, the said Drury D. Adams was president and the said Edwin Army Hodges was assistant cashier of the Union Bank & Trust Company of Batesville, Arkansas, which said Union Bank & Trust Company was then and there a banking corporation that had theretofore been created, organized, and established and was then and there existing and in operation and doing business under and by virtue of the laws of Arkansas concerning banks, and which Union Bank & Trust Company was then and there a member bank of the Federal Reserve Bank of St. Louis, Mo., in the eighth Federal reserve district, in compliance with and under and by virtue of the act of Congress of December 23, 1913, as amended, known as the Federal reserve act, and was then and there existing and doing a banking business in the city of Batesville, in the county of Independence and in the State of Arkansas, as a member of the Federal reserve system of the United States, under the laws of the United States, and is hereinafter referred to as "said member bank"; and that they, the said Drury D. Adams and Edwin Army Hodges, so being president and assistant cashier, re-
20 spectively, of said member bank, then and there with intent on their part to injure and defraud said member bank, and to deceive the officers and directors of said Federal reserve bank, and the agents and examiners appointed under the laws of the United States to examine the affairs of said member bank, unlawfully, wilfully, fraudulently, and feloniously did make and cause to be made a certain false entry in a certain book and record then and there used by said member bank in transacting its said banking business, that is to say, in the book and record of said member bank known and designated as "journal, ledger, and daily balance" book, on the page in said book dated "Mar. 8, 1927," on the debit side of said page under the heading "Items" in the division and space of said page used for the account of the "sundry names (items in transit)," and being the ninth item thereof, a copy of said entry being as follows:

"Hazen 27,125.25,"

which said entry then and there purported to show and did in substance and effect indicate and declare that on the said 8th day of March, 1927, said member bank had sent to the Bank of Prairie, Hazen, Arkansas, certain items aggregating $27,125.25 for collection

for the account of the said member bank, whereas in truth and in fact no such remittance of $27,125.25 for the account of said member bank was sent by said member bank on the said 8th day of March, 1927, to the said Bank of Grand Prairie, Hazen, Arkansas, for collection for the account of the said member bank, and the said Bank of Grand Prairie was not then and there entitled to be charged therefor, and said entry so made, as aforesaid, was unjustifiable, unwarranted, and false, as they, the said Drury D. Adams and Edwin Army Hodges, then and there well knew, contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States.

COUNT VII

21 And the grand jurors aforesaid, on their oaths aforesaid, do further present:

That Drury D. Adams and Edwin Army Hodges, on or about the 31st day of December, 1926, at Batesville, in Independence County, in the State of Arkansas, were officers and agents, to wit: that is, the said Drury D. Adams was president and the said Edwin Army Hodges was assistant cashier of the Union Bank & Trust Company, of Batesville, Ark., which said Union Bank & Trust Co. was then and there a banking corporation that had theretofore been created, organized, and established and was then and there existing and in operation and doing business under and by virtue of the laws of the State of Arkansas concerning banks, and which Union Bank & Trust Company was then and there a member bank of the Federal Reserve Bank of St. Louis, Mo., in the eighth Federal district, in compliance with and under and by virtue of the act of Congress of December 23, 1913, as amended, known as the Federal reserve act, and was then and there existing and doing a banking business in the city of Batesville, in Independence County, in the State of Arkansas, as a member of the Federal reserve system of the United States, under the laws of the United States, and is hereinafter referred to as "said member bank"; and that they, the said Drury D. Adams and Edwin Army Hodges, so being president and assistant cashier, respectively, of said member bank, then and there with intent on their part to injure and defraud the said member bank, and to deceive the officers and directors of the Federal reserve bank and of said member bank, and the agents and examiners appointed under the laws of the United States to examine the affairs of said member bank, unlawfully, wilfully, fraudulently, and feloniously did make and cause to be made a certain false entry in a certain book and record then and there
22 used by said member bank in transacting its said banking business; that is to say, in a book and record of said member bank known and designated as the "journal, ledger, and daily balance" book, on the page in said book dated "Dec. 31, 1926," on the debit side of said page under the heading "Items" in the division

and space of said page used for the account of "Lib. Cent. Tr. Co.," a copy of said entry being as follows:

"R 10000.00,"

which said entry then and there purported to show and did in substance and effect indicate and declare that on said 31st day of December, 1926, said member bank had made a remittance of $10,000 to the Liberty Central Trust Company, of St. Louis, Missouri, whereas in truth and in fact no such remittance of $10,000.00 was made on said date by said member bank to the said Liberty Central Trust Company, and said Liberty Central Trust Company was not then and there entitled to be charged therefor, and said entry so as aforesaid made was unjustified, unwarranted, and false, as they, the said Drury D. Adams and Edwin Army Hodges, then and there well knew, contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States.

(Signed) IRA J. MACK,
*Assistant United States Atty.*

Endorsed: No. 9100. Signed C. C. Kavanaugh, foreman. Filed April 8, 1928.

24 In United States District Court, Eastern District of Arkansas, Northern Division

No. 1112

UNITED STATES OF AMERICA VS. D. D. ADAMS

*Judgment*

June 4, 1929

Now, on this day, June 4, 1929, this cause comes on for consideration on the regular call of the docket, and the United States appears by Charles F. Cole, United States attorney for the Eastern District of Arkansas, and the defendant, D. D. Adams, appears in person and by his attorneys, T. H. Caraway and Coleman & Reeder, and thereupon there is presented to the court the plea of former jeopardy and former acquittal heretofore filed herein by the defendant, D. D. Adams, to the indictment against him herein, and the same is submitted to the court upon the indictment herein and said plea of former jeopardy and former acquittal, a copy of the indictment in the case of the United States of America vs. D. D. Adams, No. 1116, formerly pending in the District Court of the United States, Northern Division of the Eastern District of Arkansas, and the judgment of acquittal in said case, entered upon a verdict of not guilty returned by a jury therein, no other evidence being introduced, the argument of counsel in support of said plea, as well as the argument of the district attorney in opposition thereto, and the court being well and sufficiently advised as to the law arising upon said plea doth find that under the provisions of section 5209 of the Revised Statutes of the United

States, as amended, and as now construed by this court, said plea of former jeopardy and former acquittal should be sustained.

It is therefore by the court considered, ordered, and
25 adjudged that said plea of former jeopardy and former acquittal be, and the same is hereby, sustained, and said indictment is hereby dismissed, and that the bond of defendant, D. D. Adams, be exonerated. Thereupon the plaintiff, the United States of America, through its said district attorney, objected and excepted to the ruling and judgment of the court in sustaining said plea of former jeopardy and former acquittal and dismissing said indictment and exonerating bond of defendant, and asked that its objections and exceptions be noted of record, which is hereby accordingly done.

(Signed) JOHN E. MARTINEAU,
*United States District Judge.*

26 In United States District Court, Eastern District of Arkansas, Northern Division

#1112

UNITED STATES OF AMERICA VS. D. D. ADAMS

*Memorandum on sustaining plea of former jeopardy and acquittal*

Filed June 4, 1929

A plea of former jeopardy and acquittal has been filed by the defendant in this case, and same comes on for hearing.

The district attorney concedes that the copy attached to this plea is a true and correct copy of the indictment against this same defendant in case No. 1116, and that upon a trial of said indictment in said case No. 1116 defendant was acquitted on all counts thereof by the jury.

The court thereupon declares the law to be that as the false entry charged in the indictment in this case, although made in another and different book of the bank, is based upon the same draft as the false entry charged in the indictment in case No. 1116, on which the defendant was tried and acquitted, that the former acquittal bars this prosecution, as the court construes section 5209, Revised Statutes, as amended.

In other words, the court construes the above section of law, the one on which this indictment is based, that there can be but one prosecution for false entries based upon any single draft or check passing through a bank, even though several different entries are made in the different books of the bank, provided all relate to the same basic check or draft.

(Signed) JOHN E. MARTINEAU,
*United States District Judge.*

[File endorsement omitted.]

28 In United States District Court

[Title omitted.]

*Order allowing appeal*

Upon reading the petition of the United States of America for appeal from this court to the Supreme Court of the United States and consideration of the assignment of errors presented therewith, it is by the court ordered that the appeal as prayed for be, and the same is hereby, allowed and granted, and the clerk of this court is hereby directed to forthwith prepare a transcript of the record, proceedings, papers, orders, and judgments entered in said cause under the seal of this court and transmit the same to the Supreme Court of the United States.

Signed this 1 day of July, 1929.

(Signed) JOHN E. MARTINEAU,
*United States District Judge,*
*Eastern District of Arkansas.*

29 In United States District Court

[Title omitted.]

*Petition for appeal*

Filed July 1, 1929

To the honorable JOHN E. MARTINEAU,
*Judge of the District Court aforesaid.*

And now comes the United States of America, plaintiff herein, by Charles F. Cole, United States district attorney, and respectfully shows to said court that it feels itself aggrieved by the judgment of this court made and entered of record by said court on the 4th day of June, 1929, in the above-entitled cause, sustaining the plea of former jeopardy and former acquittal filed by the defendant, D. D. Adams, to the indictment herein and dismissing said indictment and exonerating the bond of the defendant, and it hereby appeals from said order and judgment to the Supreme Court of the United States from the said District Court of the Northern Division of the Eastern District of Arkansas, for the reasons particularly specified in the assignment of errors which is filed herein, and it prays that this appeal may be allowed by this court and that a transcript of the record, proceedings, and papers upon which said order and judgment was made, duly authenticated by the seal of this court, may be sent to the Supreme Court of the United States, as by law provided.

(Signed) CHAS. F. COLE,
*United States District Attorney for the Eastern District of Arkansas, Attorney for Plaintiff.*

[File endorsement omitted.]

80 In United States District Court

[Title omitted.]

*Assignment of errors*

Filed July 1, 1929

Comes the plaintiff, United States of America, by Charles F. Cole, and prays an appeal from the final judgment of this court in sustaining the plea of former jeopardy and former acquittal filed by the defendant, D. D. Adams, to the indictment herein and dismissing said indictment and exonerating the bond of said defendant, and assigns as errors the following, to wit:

I

That the court erred in sustaining said plea of former jeopardy and former acquittal and dismissing said indictment and exonerating the bond of said D. D. Adams.

II

That the judgment of the court is contrary to the law.

Wherefore said plaintiff in error prays that the said judgment of the said District Court of the United States may be reversed and held for naught, and that plaintiff be granted such other and further relief as may seem right to the court and provided by law.

(Signed) CHAS. F. COLE,
*United States District Attorney for the Eastern District of Arkansas, Attorney for United States.*

[File endorsement omitted.]

81 [Citation in usual form showing service on D. D. Adams omitted in printing.]

82 [Clerk's certificate to foregoing transcript omitted in printing.]

83 In Supreme Court of the United States

*Statement of points upon which appellant will rely, and designation of parts of record to be printed*

Filed Aug. 10, 1929

STATEMENT

I

Appellant will rely upon the following point in the above-entitled cause:

1. That the court below erred in sustaining the plea of former jeopardy and former acquittal and dismissing the pending indictment.

34 II

Omitting pages 1, 2, 5, 6, 7, 23, and 27, the record as filed should be printed.

CHARLES E. HUGHES, Jr.,
*Solicitor General.*
O. R. LUHRING,
*Assistant Attorney General.*
HARRY S. RIDGELY, *Attorney.*

[File endorsement omitted.]

[Endorsement on cover:] File No. 34412. E. Arkansas, D. C. U. S. Term No. 281. United States of America, appellant, vs. D. D. Adams. Filed July 31, 1929. File No. 34412.

U. S. GOVERNMENT PRINTING OFFICE

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No. 281

# In the Supreme Court of the United States

OCTOBER TERM, 1929

UNITED STATES OF AMERICA, APPELLANT

*v.*

D. D. ADAMS

*APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF ARKANSAS*

## STATEMENT OF JURISDICTION